Sigismond Stydolf Esq; Appellant, } *Susanna Langhorne* Widow, Sister and Heir of *Thomas Bostock* Gent. *decea.* Respondent.

The Appellant's Case.

THOMAS BOSTOCK of *London* Scrivener, had several Trusts lodged in him for the Appellant, but died before any Account given.

In 1677. The Appellant brought his Bill in Chancery against the Representatives of *Bostock* for Relief in all the said Trusts, and obtained a Decree for an Account of the Profits of a Trust Estate that had been received under the Appellants Father's Deed of Settlement; and after Nine Years spent, the Master made his Report, and certified due to the Appellant 2416*l.* 1*s.* 8*d.* And the Decree was Signed and Inrolled against *Thomas Hull*, and *Penelope* his Wife, who was Relict and Executrix of *Thomas Bostock* Gent. who was Executor of *William Bostock*, And also Administratrix of the Goods and Chattles, with the Will annexed of *Bostock* the Scrivener, unadministred by *William* and *Thomas*. But as to a further Demand of 6000*l.* Principle Monies of this Appellant's Father's and Mother's Cash in *Bostock*'s Hands, nothing was at that time Decreed; but the Cause lies still open.

In 1686. The Appellant was forced to bring a new Bill in aid of his former Decree. And the 20*th* of *July*, 1688. upon hearing
20*th July* 1688. that Cause, it was Decreed, That both the Real and Personal Estate of *Tho. Bostock* Gent. should be subject to make the Appellant Satisfaction, As also the Scrivener's Assets come unto *Hull*'s Hands, particularly, 647*l.* 12*s.* 6*d.* which was paid in by one *Penton* out of a Church-Lease. Which Decree, upon a Rehearing before the then Lords Commissioners, *Maynard*, *Kecke* and *Rawlinson*, was confirmed. And afterwards being Reversed upon another Rehearing on the Behalf of *Luke Langhorne*, and *Susanna* his Wife, the now Respondent before the Lords Commissioners, *Rawlinson* and *Hutchins*, was afterwards again Affirmed in this most Honourable House, upon the Appeal brought by this Appellant.

Afterwards the Appellant proceeded upon his former Decree, and stated his Debt to 2964*l.* 16*s.* and obtained a Report for 375*l.* 15*s.* in the Respondents Hands, of the Rents Decreed for the Appellants Satisfaction. The

5th *July* 1693. The Appellant upon the ſaid Report moved, that the 375*l.* 15*s.* might be paid to the Appellant; whereupon it was ordered, the Reſpondent ſhould pay the Appellant the Money due by the laſt Report by a fix'd Day; or in Default thereof, the real Eſtate to be forthwith Sold. And in the ſaid Order, there is contained this Imperfect Clauſe, *viz.* "That "the Defendant *Langhorne* upon giving the Plant. Security to "be allow'd by the Maſter to indempnifie him againſt all Coſts "and Damages in Proſecuting for the Diſcovery of the Per-"ſonal Eſtate, in whoſe Hands ſover the ſame is. The Or-dering Part being left out.

Langhorne, or the Reſpondent, never made one ſtep towards complying with the Terms of the laſt Order, but by their Default, the Lands were Sold, ſubject to 200*l.* Annuity to Mrs. *Hull* for Life, for 2500*l.* which was paid the Appellant in Part of his Debt: But for any further Satisfaction, he was forced to wait 'till it could be got out of the Aſſets in *Hull*'s Hands, which with the particular Summ of 647*l.* 12*s.* 6*d.* were ſtated to 810*l.* 6*s.* 4*d.*

Hull not taking care to pay the ſame, his Annuity of 200*l.* *per Ann.* was ſtayed by ſeveral Orders in the Chancery to anſwer it: And after ſome time, *Hull* and his Wife got an Order to be let into their Annuity again; unleſs cauſe. And under pretence of ſhewing cauſe againſt this Matter:

Langhorne and his Wife the now Reſpondent, notwithſtanding the Defect of the ſaid Imperfect Order, and themſelves not having performed the Terms or Conditions of the ſaid Order; yet under colour thereof, procured an Order of the

1*ſt Feb.* 1699. 1ſt *Feb.* 1699. for a Reference of ſeveral Matters, nothing relating to the Merits of the Cauſe; but as conceived, to perplex the Cauſe, and delay the Appellant; and proceeded to

17*th July* 1700. procure the Maſter's Report of 17*th July* 1700. purſuant thereto.

And the Matters of the ſaid Report coming to be heard between *Hull* and his Wife, and the ſaid Reſpondent, who were Defendants only in the Cauſe by Contrivance between themſelves, without the Knowledge of the Appellant, who was

12*th Dec.* 1700. Plantiff in the Cauſe, the 12*th Decem.* 1700. It was Ordered and Decreed, the ſaid 810*l.* 6*s.* Aſſets in *Hull*'s Hands ſhould be paid to *Langhorne* and his Wife, the Reſpondent.

After which, as ſoon as the Appellant got any Intimation thereof, he applyed to the Court for a Rehearing; and juſt when his Rehearing was ready to have come on, the ſaid *Langhorne* and his Wife, the now Reſpondent, Obtained an Order

Order for the Appellant to be firſt examined to Interrogatories according to the Order of 1ſt *Feb.* And afterwards when it was look'd into, it was found that in truth there was no ſuch Order for the Appellants Examination: Yet by a ſubſequent Order, the Appellant was Ordered to be examined touching the Matters contained in the ſaid Order of 1ſt *Feb.* 1699.

Which is a Proceeding not known before in the Chancery againſt a Plaintiff in a Caſe ſo circumſtanced as this is. And which Order of 5th *July* 1693. and 1ſt *Feb.* 1699. The Maſters Report of 17*th July* 1700. The Decree of 12*th Decemb.* 1700. and the ſubſequent Orders are as conceived great Hardſhips on the Appellant, and not conſiſtent with the Rules of Equity.

1ſt. *For that the* 375l. 15s. *reported to be in the Reſpondent's Hands ſo long ſince, ought to have been paid to the Appellant towards his Satisfaction.*

2dly, *For that the ſaid* Langhorne, *or the now Reſpondent his Wife, ought not to have carried on their Proceedings upon the ſaid Order of the* 5th July, *not having complyed with the Conditions of the ſaid Order: And for the Defect in wanting the Ordering Part.*

3dly, *For that it could never be intended by the ſaid Order, That* Langhorne *ſhould have any thing out of the Eſtate until the Appellant was firſt ſatisfied, as appears by* Langhorn's *being thereby directed to pay the Appellant's whole Money.*

4thly, *For that* Langhorne *and his Wife, the now Reſpondent as Defendents only, could have no Capacity to have any thing Decreed to them; nor can a Decree Signed and Inrolled and Affirmed in this moſt Honourable Houſe, be varied by any ſubſequent Proceedings in Chancery.*

For which ſaid Reaſons, and many others appearing in the Proceedings, which have been had in this Cauſe, The Appellant humbly hopes the Orders of 5th July 1693, *and* 1ſt Feb. 1699. *The Report of* 17 July 1700. *The Decree of* 12th Decemb. *following, The Order of* 7th Novemb. 1702. *and the ſubſequent Order may be Reverſed and Diſcharged, And the Appellant Effectually Relieved.*

Stephen Harvey,

Spencer Cowper.

THE CASE OF

Sigismond Strydolf Esq;

Appellant;

Against

Susanna Langborne, Widow,

Respondent.

To be Heard Feb. 23 d. 1702.